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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,014

12/08/2005

Dong-sung Kim

NEK-0010

1081

23413 7590 05/22/2008

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EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

05/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,014	Applicant(s) KIM ET AL.	
	Examiner Jeffrey C. Mullis	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7-3-06</u> . | 6) <input type="checkbox"/> Other: _____ |

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "larger" and "small" are subjective and therefore unclear.

At least claim 6 is unclear in that the lower level of particle diameter for the large particles, 500 Angstroms is the same as that of the small particles.

Particle sizes exist as a distribution of sizes and therefore particle diameters are unclear when not qualified as to the statistical type of distribution of sizes i.e. weight or number average etc particle diameter. Note in this regard Ishii at column 17, lines 20-25 who refers to weight average particle size. Also the recitation of two particle size populations makes little sense given that particles exist a distribution of sizes and even a population of weight or number average size will have some large particles and visa versa.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leiss (US 5,683,815) in view of any one of Swoboda (US 4,224,419 or Breulmann et al. (US 2003/0105225).

Leiss discloses an ASA composition which may contain a combination of SAN, methacrylate butadiene styrene and other ASA copolymers as in applicants components 3, 4 and 6 respectively. Note the abstract and column 4, lines 8-14. The

use of large and small particle size ASA is not disclosed and the reference is silent regarding applicants amounts of components.

Swoboda discloses improved coloring and impact properties due use of bimodal particle size distribution ASA at column 3, lines 31-42.

Breulmann et al. discloses in paragraph 24 improved mechanical properties by use of large and small particle size ASA.

It would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention to a mixture of small and large particle ASA in place of the ASA of the primary reference in order to improve mechanical properties and coloring as taught by the secondary references absent any showing of surprising or unexpected results.

Use of applicants amounts of components would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in that it requires only routine experimentation to find the optimum or workable range of a result effective variable absent any showing of surprising or unexpected results.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis
M-F, 9-5 pm at telephone number 571 272 1075.

Jeffrey C. Mullis
Primary Examiner
Art Unit 1796

JCM

5-14-08

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/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796